

Board of Selectmen
May 06, 2013

PRESENT: Philip Bean, Chairman
Richard Nichols, Vice Chairman
Michael Pierce, Selectman
Ben Moore, Selectman
Mary-Louise Woolsey, Selectman
Frederick Welch, Town Manager

SALUTE TO THE FLAG

Chairman Bean opened the public hearing.

I. Public Hearings – RSA 41:14-a Second Hearing

1. Release of Right of Way Interests on Tax Map and Lots 295/60, 64, and 65 from Bk2197, Pg1427 to the adjacent property owners
2. Deeding of two mostly underwater lots to the Conservation Commission

Attorney Gearreald explained that this is the second public hearing of the two required before the BOS acts under RSA 41:14-a. This section of the statute deals with the acquisition and sale of land and buildings and or both, it does not list that any particular compensation is required when the Town is deeding land, and will explain what the compensation/consideration is.

In 1972 the Town was deed by the Federal Government the right of way and the two lots; this land was taken in 1939 by the Federal Government, by that time of deeding to the Town there were issues regarding structures being built on the right of way, and these issues manifested last year when the Wok Restaurant's sought to build a porch between their building and the highway, where the right of way runs through it.

Atty. Gearreald and Mr. Welch, the Town Manager have been working with the Federal Government on the release of the right of way and land for two years, this is a liability for the Town regarding the right of way and the structures that have been built on it.

What the Town would be receiving in the release of the rights to the right of way and the two lots would be the release of liability and prevention of potential tax loss on the value of the properties that the right of way runs through.

The proposal is to deed the right of way to adjacent property owners, and deed the lots to the Conservation Commission.

Public Hearing Public Comment

Art Moody, 3 Thomsen Road asked about the consideration that the Town Attorney spoke about.

Atty. Gearreald reiterated what he said in the beginning and that this releases the Town from any potential liability regarding development on this land that the Planning Board had previously given approvals for.

Mr. Moody continued speaking to the following: the definition of compensation; the statue does not pertain to this process; against the release of the interests; the lots are not mostly underwater; the deeding to the Conservation Commission; Conservation Commission being abolished; the lots should be deed to the Town; requested corrections to the April 22 BOS minutes regarding his opposition to this process under this statue.

Atty. Saari, representing the Ocean Wok gave an explanation of how this situation came about, it began in the twenties with a survey of a wavy road through all the lots in this area; in 1950 the wavy road passed by the Ocean Wok; then in the 1990's a new survey shows the right of way in the same location. This is not taking land away from the Town, the property owners own the land that the right of way runs through.

Vic Lessard, spoke in favor of the release, gave a history of the property; the owner Amos Gunian; the land was supposed to be given back to the property owner.

Atty. Gearreald spoke about the reversionary rights of the United States and if any money received would not be kept by the Town and would be required to be given to the United States.

Selectman Moore asked if a decision could be made after the closure of the public hearing and Atty. Gearreald agreed that a decision can be made at the next meeting.

Selectman Woolsey closed the Public Hearing at 7:19 PM Public Hearing.

Selectman Woolsey stated that the properties are being taxed on the proper value of the property, and the assessed value will not go up.

II. Public Comment Period

Corinne Baker 244 Exeter Road, inquired about the rail bed property being purchased by the State, against the use as alternate Route 1 lane, but for a rail trail; Depot Square jurisdiction regarding parking restrictions; Police and Fire Department pensions and their overtime being included; and if or will the sewer be extended to her property on Exeter Road.

Selectman Woolsey gave a brief overview on Police overtime and how it is administered by Police union's contract requirements.

Maury Friedman 30 Hampton Meadows, spoke to the issue that the seniors are being underserved; the proportion of programs to seniors versus to younger age groups that offered by the Town; there is such a need for more services to seniors; spoke about the seniors centers that are offered in neighboring towns; requested the Town provide an interim measure for a senior center at a cost of \$30,000 which includes rent and staff costs.

Vic DeMarco, 11 Milbern Ave, clarified that the overtime in the Police Department is not done on seniority basis, there is a call list that starts with the most senior person and proceed down the call list, each person is allowed to take only one shift; rarely the opportunity for two shifts; in 1975 the State told the Police that they were either in the retirement systems or they leave; the ratio of contribution was 30/20/50 percent – State –Town- Employee, the Town was in because of the 20 percent but is now paying 50%; the factor driving overtime is

that the Police and Fire Departments do not have sufficient personnel to cover the shifts and that drives overtime, the rational giving for not hiring enough personnel to cover the shifts is that the cost of hiring additional full time employees is more expensive than paying overtime.

Mr. DeMarco also spoke about his concerns with the costs of Trash and Recycling; the process start three years ago, very confusing; issues brought up about buying side loaders, it was going to be cost effective, save on workman's comp; spent over two million and nothing has changed; his wife made an inquiry of having her tenants trash picked up, was told that the Town does not pick up on private property; asked why the Town picks up trash behind her business, was told that was because of sanitation problem; requested that the Selectman to revisit the time that this was approved; questioned the process of going to Portland; was the bid procedure followed.

Vic Lessard spoke about the mistake in not approving the Wash Down bay; the newer models trucks are rotting because of the salt; it is needed for all vehicles and to protect the trucks as well; should have stayed with Waste Management for trash pickup; praised the DPW employees for their hard work; take the money from lease land and build a senior center.

Art Moody spoke again on the comment of Atty. Saari comment on Harbor Road, it is a private road; owned by the developers; economic development being stifled; prescriptive right to use the road to the old wooden bridge; item in the budget – Fire Department dispatchers; collected bargaining unit includes overtime for dispatch.

III. Announcements and Community Calendar

Selectman Moore announced that May 11, this Saturday is National Associated of Letter Carriers Food Drive, last year Hampton generated over 6, 000 pounds of food for that drive; the "Art in Bloom" at the Partridge House hours this week are Wednesday 6:30PM to 8PM and Thursday and Friday 1PM to 5PM.

IV. Appointments

1. Attorney Peter Saari
 - a. 20 Keefe Avenue
 - i. Agreement Document – Snow Plowing and Trash & Recycling Removal
 - ii. Issuance of Building Permits on Private Road

Atty. Saari spoke about the two issues that were discussed at the last meeting; the road itself and how it will be done, and the concern of snow, trash and recyclables removal. The agreement states that the Condominium Association shall be responsible, at their sole expense for snow, trash and recyclables removal, secondly, how the road will be done, the installation of the base coat and tack coat, these details are spelt out solidly in the agreement.

Atty. Gearreald explained the details of the agreement on the snow plowing and trash & recycling, the removal is the sole responsibility of the development and the Town of Hampton will not be liable, these were conditions placed on the approval by the Planning Board. In the agreement is spells out specifically that it is the Developer's/Association's responsibility/obligation to snow plow Keefe Avenue, and for trash and recyclables removal from the project, and to pave the road and to upgrade the drainage on Keefe Avenue by relocating a catch basin and install a new one in Keefe Avenue, and to keep clean and maintain that catch basin.

Selectman Pierce, Moore, and Woolsey asked Atty. Gearreald questions about the agreement regarding the following: that the agreement dated today, May 6, 2013 is it the final; does it meet the requirements of the Town, and can it be signed this evening; clarification of who is responsible, and it is the developer and successors who will be responsible for the snow, trash and recycles removal from the project, and for the repaving of the road; the Board of Selectmen shall be rescinding their declaration of Keefe Avenue as an emergency lane under RSA 231:59-a; and that the Town is under no obligation to remove the trash and recycles generated by the remaining properties of Keefe Avenue.

Selectman Moore MOTIONED to hereby move to sign the “Snow, Trash and Recyclables Removal Agreement” as last amended on May 6, 2013 regarding the development at 20 Keefe Avenue and further move that the Board of Selectmen authorize the issuance of building permits for the erection of buildings at 20 Keefe Avenue, located at the westerly terminus of Keefe Avenue, a private road, on the conditions that:

- a. The developer signs a Snow, Trash and Recyclables Removal Agreement that will be binding upon the developer, its heirs, successors, and assigns and the Condominium Association of the development, such that the bound parties and not the Town of Hampton will be responsible, at their sole cost, for repaving Keefe Avenue acceptably, modifying the drainage infrastructure within Keefe Avenue and repaving same, performing snow plowing from Keefe Avenue, and performing removal of trash and recyclables from the 20 Keefe Avenue Condominium project;
- b. The Town of Hampton neither assumes responsibility for maintenance of Keefe Avenue nor liability for any damages from the use thereof;
- c. Prior to the issuance of any building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the Rockingham County Registry of Deeds;
- d. All Town, State and Federal permits are to be obtained prior to the commencement of work;
- e. Note 11 on Sheet C2 of the Plans to be recorded is first amended to read that collection and disposal of trash and recyclables from the Condominium project area is to be the sole responsibility, and at the sole expense, of the Condominium Association; and
- f. Note 20 on Sheet C3 is to be amended to conform with the repaving obligation as set forth in the “Snow, Trash and Recyclables Removal Agreement” as last amended on May 6, 2013.

SECONDED by Selectman Pierce.

Discussion on Motion.

Selectman Woolsey objects to the motion as it contains two separate issues, not prepared to vote without discussing the issuance of the building permits; Selectman Nichols agrees that it two subjects, asked of the Atty. Gearreald if it can be voted as one motion, and yes it could.

Discussion for the issuance of building permits.

Selectman Woolsey asked questions on the Notes on the plans for the development: page C-2 Notes 1, 2 & 11; page C-3 Notes 14 & 20; page C-4 Notes 12, 15, 18, 22 & 25.

VOTE: 4-1(Woolsey)-0

2. Chief Silver

a. Fire Departmental Update

Chief Silver presented his departmental update to the Board with the following information: Four months completed. Fires: year to date we have had 6 residential fires, 7 total fires within structures, 6 fires within vehicles or areas adjacent to buildings. The breakdown by district is: 38.8% - 206 - Beach District; 53.5% - 284 - Town District; 7.7% - 41 - Rural District; 100% - 531 - Total. Burning brush from yard clean-up, there are rules governing outdoor burning in the State of NH and in Hampton, a permit is required anytime an outside fire is kindled, to obtain one visits either fire station. EMS: Year to December end we have responded to 543 medical emergencies; a decrease of approx. 5 over 2012; 74 occasions of simultaneous EMS calls, most are 2 incidents and some are 3 incidents occurring at the same time. Doing very well managing these with our own resources, when we do not have an ambulance immediately available, we rely on mutual aid. Over the course of the year our requests and responses to or from other communities evens out. The replacement ambulance is proceeding, final drawings should be available shortly, once approved, production in as short as 45 days. Vehicles: A few major issues have arisen with vehicles, need to replace fuel tanks on 3 vehicles due to corrosion from winter road salting, the aerial Ladder is in Foxboro for service, unavailable for several days. Conducting pump testing on all our pumping apparatus and will continue for several weeks. Update on Stations: Construction on both are progressing and proceeding on schedule; the facades and interior materials: Personnel: EMS training completed, changing the focus to fire training; we have been able to continue to maintain our minimum staffing this year unlike the previous 3 in which we reduced daily staffing; an extended absence beginning at the end of May. On a positive note, 3 members have welcomed new additions to their families in the past couple of months, congratulations to each of them.

Chief Silver celebrated his twenty years with the Town of Hampton and thanked the Board in affording him the opportunity to provide serve to the Town.

b. Ambulance Billing ~~Rights~~ Rates

Chief Silver explained the billing rates process, it is currently al la carte by the department and he identified specific rates for services used or provided and explained how Medicare groups their billing; Medicare does not recognize al la cart billing; only pay for bundle's services and they pay the lowest; Obama Care structures the reimbursements/payment in the bundle form of billing; other insurers are shifting to this way of reimbursements; requesting to switch to this way of billing; to be in line with what the industry is using; it simplifies the change when Obama Care goes into effect in 2014.

Selectman Moore asked for this change in writing before action on this change.

Discussion occurred on the following: billing for non-transport encounters; is there an increase in less serious request for services instead of going to the emergency room; the potential of Health Care to be shifted to the local community level; fire suppression and EMS reports; progress on integrating those reports. Chairman Bean thanked the Chief for his service.

3. Ellen Lavin, Town Treasurer and Michael Schwotzer, Finance Director

a. NH Municipal Bond Bank

Note: Draft minutes are subject to corrections, additions and deletions.

- i. Loan Agreement ~~\$5,576,740~~ \$5,756,740
- ii. Closing Certificates

Ms. Lavin corrected the amount of the loan agreement 5,756,740. Ms. Lavin explained the loan agreement and how it is replacing the BAN that the Town borrowed for the two fire stations; in February she borrowed 4.1 million and to close the NH Municipal Bond.

Mr. Schwotzer informed the Board that an additional meeting and paperwork on this loan (\$5,756,740) amount will occur this month and this is the first step before the issuance of the Bond. The Bond will be for 19 years as the BAN started the timeframe. The Bond Bank goes out to bid for the interest rate in June, and the interest rate is unknown, the rate that was used was the rate from November.

Selectman Woolsey MOTIONED to AUTHORIZE and execute the Loan Agreement and other closing certificates with respect to the \$5,756,740 loan to the Town from the New Hampshire Municipal Bond Bank SECONDED by Selectman Pierce.

VOTE: 5-0-0

- b. The Provident Bank
 - i. Tax Anticipation Note (TAN) \$4,000,000
 - ii. Tax Anticipation Note Line of Credit Rider
 - iii. Closing Certificates

Mrs. Ellen Lavin, Town Treasurer is here to request that the Board authorize the Tax Anticipation Note, will borrow as needed, up to 4 million dollars; this is not a revolver; the interest rate is at 2.5 percent from the Provident Bank. Ms. Lavin will borrow as needed and did not have the need to borrow last year; as of today the Town has 1.5 million in the Bank; we are required to pay the schools 1.3 million to be paid. The documents that need to be authorized are: one "Tax Anticipation Note"; two "Tax Anticipation Note Line of Credit rider" which says that the Treasurer will borrow as needed, and that there is no minimum that she needs to take; and one "Certificate" which authorizes her to borrow for the Town of Hampton.

Selectman Woolsey MOTIONED to AUTHORIZE the Board of Selectmen to sign the Tax Anticipation Note in the amount up to \$4,000,000 and the Tax Anticipation Note Line of Credit Rider and the Certificate SECONDED by Selectman Pierce.

VOTE: 5-0-0

c. Direction of 2014 Budget and CIP

Selectman Nichols explained that the Board should proceed in a similar approach, the same as last year; have the Finance Director provide to the Board a Draft Default Budget identifying what areas of the budget will increase (Bonds, Insurance increase, Union Contracts), when the draft default has been reviewed by the Board, then Board will be able to provide the direction.

Mr. Schwotzer gave the Board an estimated date of May 20 for the draft default budget.

CIP Discussion: Board members discussed that the CIP should be limited to bond items and big items; projection of two years out; same approach as last year; forecast ability is good; the benefits, downfalls and defects in a CIP.

4. Jay Diener, Conservation Commission

a. Green Infrastructure Project

Mr. Diener explained the purpose of the “Green Infrastructure Projects” from NH Coastal Watershed Communities. Green Infrastructure is an approach that integrates stormwater management into the developed landscape by capturing and managing runoff close to its source while providing other benefits such as groundwater recharge or reuse of stormwater; working on an application on behalf of the Town; projects identified to submit for consideration: revise the sealed-surface ordinance; install 1-3 demonstration rain gardens and/or stormwater planters; a plan to utilization Campbell Field; stenciling in front of storm drains; have letters of support from Town Planner/Planning Department; Parks & Recreation and DPW; Hampton Garden Club; Commission to commit the revenue from our upcoming painted rain barrel auction to be used as “match”.

Discussion Mr. Diener included the following: the monies match, and the match is not required; use of Campbell Field for recreations use, creating a plan of multiple use for Campbell Field; Board members not receptive to the Campbell Field use.

The Conservation Commission is asking the Board of Selectmen for a letter of support for this Green Infrastructure application.

Selectman Pierce hereby MOVED to provide a letter of Support absent bullet number three “a plan to utilize Campbell Field” SECONDED by Selectman Nichols

VOTE: 4-1(Woolsey)-0

V. Approval of Minutes

1. April 22, 2013

Selectman Woolsey MOTIONED to MOVE the Minutes of April 22, 2013 SECONDED by Selectman Nichols.

Page 1: Under Mr. Moody’s comments add “Mr. Moody is opposed to this based on the statue”.

VOTE: 5-0-0

2. April 23, 2013 Public and Non-Public Session

Selectman Woolsey MOTIONED to MOVE the Public and Non-Public Session Minutes of April 23, 2013 SECONDED by Selectman Nichols.

VOTE: 5-0-0

VI. Town Manager’s Report

1. The Town Clerk office will be closed on Wednesday, May 15, 2013, please plan your needs accordingly.
2. Demand letters for payment of unpaid leased land rent have been sent. Individuals have until May 15th to pay if not final notice will be issued and eviction proceedings will be initiated.
3. Household Hazardous Waste Day will be held on May 18, 2013 from 8 AM to 12 Noon behind the Old Court House and Fire Station.
4. The Waste Water Treatment Plant, Church Street Pumping Station replacement and Fire Station constructions projects are on schedule.

5. Please license your dogs; licensing was due by April 30th.

Other items to the Town Managers Report: Communication from Enernoc regarding ISO New England, we receive income from Enernoc for energy use, due to changes in ISO New England, Enernoc is terminating the ISO-NE Demand Response Sales and Services Agreement as Enernoc is going out of business.

VII. Old Business

1. Corrective Action Plan – Purchasing Policy

Selectmen Pierce and Nichols discussed number four about the emergencies' procedures noted in the memorandum; and number two regarding the low purchaser; why it would need to go to the Board of Selectmen for discussion and approval; bids are assumed to be over \$15,000; items below \$15,000 would not have to go to the Board, discretion of the Town Manager; exceptions would go to the Board if over \$15,000; authority in an emergencies; notice for emergency meetings is 24 hours. Clarify number two and four in the memo.

2. Purchasing Policy and Procedures

Selectmen Pierce requested that the word “immediately following” be inserted for clarity; objections to the 4/5th change to the 2/3rd majority vote.

Selectman Nichols hereby MOVES to APPROVE the amended Purchasing Policy and Procedures as shown in the version as last edited by the Town Attorney on May 6, 2013 from earlier edits by Selectmen Woolsey and Nichols, with the exception of the two references to the 4/5th and adding “immediately following” to the first sentence of D. under Cable Revolving Fund and the grammatical changes SECONDED by Selectman

VOTE: 5-0-0

3. 2013 Selectmen's Goals

Selectman Nichols will short list the goals before them and it will be discussed next week.

4. DRED – JOP

The Selectmen discussed the following issues in the JOP; beach rakings; parking; emergency response to State Buildings; question as to authorize the Town Manager to make revisions to the JOP; what is the process going forward; discussion on whether it should be the full board or just two Selectman involved in the discussion with the State.

Motion by Selectman Woolsey to have the full board meet with the State, motion failed, no second.

The Board will wait to see the Attorney General's opinion on whether a meeting with the State falls under the Right to Know Law.

5. Solid Waste Ordinance

Discussion on the Memo from the Town Manager regarding the 5,000 pound credit to the Casino and the Ashworth, there is no longer an issue with the Ashworth; and all commercial entities are getting the 5,000 pound credit.

Selectman Moore MOTIONED the Town should enforce the Solid Waste Ordinance and no commercial business will receive any credit toward the waste that they bring into the Transfer Station SECONDED by Selectman Woolsey.

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For emphasis, this motion brings this practice into compliance with the Solid Waste Ordinance.

Other Old Business

Previous discussion of waste pickup proposal by the DPW Director and the following: Item 1 – Proposal to increase the frequency of the pickup (2x) at the Beach, Monday and Friday; it has been discussed with Counsel and the Union; Item 2 – Notice to the Union for the three week trial of the implementation of the 10 hour/four day waste pickup and if it works; the work schedule will be changed; a sidebar document will be created.

Selectman Nichols MOTIONED to approve the two items conditionally on reaching a sidebar agreement with the Union, to change the work week to 10 hour/four day for waste pickup SECONDED by Woolsey.

VOTE: 5-0-0

VIII. New Business

1. Communication with Public Discussion
 - a. Mass Email Distribution
 - b. DPW Non-Emergency Reverse 911

This item will be discussed with Paul Paquette on May 13.

2. Replacement and Extension of Sewer Lines
 - a. Hunter Drive ~~Court~~ and Holman Lane

The Town Manager explained that Holman Lane was accepted by Town Meeting; Holman Lane's sewer line was connected to Route 1 as Mill Road did not have sewer at that time, and uses a pumping system that brings the sewer to Route 1; these pumps are failing. The residents would like a gravity force main installed to bring the sewer to Mill Road; the cost is \$100,000; the pumps are owned by the residents. Hunter Drive has the same issue and the cost is also \$100,000; the Town has also accepted this road; the sewer is being pumped up from the cul-de-sac to the Towns line; these are preliminary findings; this road was constructed about 15-20 years ago. This will need to be a warrant article; either by the Board or by the residents; both roads are constructed in wetlands; proceed with preliminary study to work on Holman.

3. Personnel Policy Amendments

Town Manager Welch explained that the Board wanted to make changes to the Policy and those changes are now before them.

Selectman Nichols MOTIONED to Amend the Health Insurance Section of the Personnel Policy to show the three options for employees to choose from for Health Insurance. Also, at the recommendation of the Assistant Town Attorney, I would include two corrections to this section replacing the words "the husband and wife" with the word "spouses", and deleting the last sentence in this section for clarity SECONDED by Selectman Pierce.

VOTE: 5-0-0

4. Award of Lawn Mowing Bid - Recreation and Parks Department

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Town Manager Welch explained that only two bids were received; Parks and Recreation is recommending the lower of the two bidders.

Selectman Wolsey MOTIONED to Award the Lawn Moving Bid to Professional Profiles in the amount of \$27,000 SECONDED by Selectman Moore

VOTE: 5-0-0

Discussion on lawn moving throughout the Town; removal of an encumbrance of \$14, 000 for a lawn mower; the purchase of a smaller lawn mower; the amount of the bids.

IX. Consent Agenda

1. Proclamation "Police Week"
2. 2012 Abatement Requests: 2012-04 Kittredge, Roberta J.; 2012-06 Pringle Realty Trust; 2012-9 Berry, Kevin & Marcia; 2012-11 Emerald Isle Motel, LLC; 2012-13 Tontodonato, Marie; 2012-24 Barbara, Scott & Lisa M.; 2012-26 Newman, Michael J & Lisa A.; 2012-34 Mitchell, Gregory S.; 2012-35 Preston, Charles R.
3. RSA 178:22 Restaurant On-Premise Cocktail Lounge – MAC Restaurant Group LLC DBA Worlds Greatest Karaoke Bar 9A Ocean Blvd.
4. Hampton Cemetery Deed – Ben Launi

Selectman Nichols MOTIONED to MOVE the Consent Agenda SECONDED by Selectman Pierce.

VOTE: 5-0-0

X. Closing Comments

Selectmen Moore asked about the in-process entertainment license and it is still in process.

The Board scheduled a Non-public Session at 2:00 PM on Thursday.

Chairman Bean allowed an exception to Closing Comments. Mr. Bill Buddenhagen 2 Holman Lane commented that they bought on Holman Lane in May of 1987 to put a time frame on how long the problem has been going; first house was bought in 1985.

The Holman Lane subdivision plan was done before the Mil Road Sewer installation and did not include a connection to Mill Road.

XI. Adjournment

Selectman Moore MOTIONED to adjourn the public meeting at 9:02PM SECONDED by Selectman.

VOTE: 5-0-0

Chairman